

**REMARKS**

Claims 15-32 are all the claims pending in the application. Claims 15-32 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,924,701 to Delatorre ("Delatorre"). For at least the following reasons, Applicant respectfully traverses this rejection.

**CLAIM TO PRIORITY**

Applicant notes that the Examiner indicates that only some of the priority documents have been received. However, the Examiner has previously indicated that all priority documents were received. (See May 5, 2003 Office Action, as acknowledged in Applicant's October 28, 2004 Amendment; *see also* March 28, 2002 Submission of Priority Document). Applicant respectfully requests the Examiner to indicate that all priority documents have been received in the next Office Action.

**REJECTION UNDER 35 U.S.C. § 102(b)**

Claims 15-32 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Delatorre. For at least the following reasons, Applicant respectfully traverses this rejection.

As an initial matter, Applicant notes that in rejecting the claims, the Examiner has recited the claim elements nearly *verbatim*, followed by a parenthetical citation to often lengthy excerpts of Delatorre without identifying how the Examiner is reading the claims onto this disclosure. 37 C.F.R. § 1.104(c)(2) states that

In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

(emphasis added). Thus, Applicant respectfully submits that the Examiner has failed to satisfy this requirement, and, accordingly, the rejections must necessarily fail. Additionally, Applicant submits that any subsequent Office Action should not be made final. (*See* MPEP 706.07(a)).

Nonetheless, Applicant respectfully submits that Delatorre fails to teach or suggest each element of the rejected claims. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

MPEP 2131, citing *Verdegaal Bros. v. Union Oil Co.*, 814 F.2d 628, 631 (Fed. Cir. 1987).

Applicant respectfully submits that Delatorre fails to teach or suggest each element of the rejected claims.

Delatorre relates to systems for measuring pressure as a function of density of a gas in a capacitor measurement device without requiring any pressure-related deflection in the measurement device. (col. 1, lines 5-9). Such pressure measurement is performed by measuring capacitance between fixed outer plates and a movable intermediate plate which are contained in a gas, sealed in a housing. (col. 1, lines 44-58). The housing includes a diaphragm which translates the pressure of the pressure media, *i.e.*, the pressure of the fluid to be measured, to the gas contained in the housing, thereby changing the temperature of the gas contained in the housing in accordance with the laws of thermodynamics. Based on measured capacitance of the device, the pressure of the pressure media can be determined. Delatorre does not, however, contain any disclosure of any method step or apparatus for determining a proportion of a component in a gaseous mixture as recited in claim 15.

The Examiner broadly asserts that such a determination is at column 1, line 33 to column 2, line 40, and column 3, line 35 to column 4, line 24. Applicant, however, respectfully

disagrees. Nowhere in these cited passages, indeed, nowhere in the remainder of Delatorre, is there any disclosure as to a determination as to a proportion of a component in a gaseous mixture. For at least this additional reason, Applicant respectfully submits that Delatorre fails to render claim 15 unpatentable.

Furthermore, Applicant respectfully submits that Delatorre fails to teach a step of measuring the density of any fluid as recited in claim 15. Indeed, Delatorre's pressure sensor includes only a temperature sensor section 24 and a pressure sensor section 25. (col. 8, lines 36-37; *see also* col. 3:57-62 ("The present invention involves a measurement of the properties of a gaseous dielectric medium between capacitance plates as a function of the pressure and temperature of such dielectric medium where the outer capacitance plates are fixed in position independent of pressure.")). For at least this additional reason, Applicant respectfully submits that Delatorre fails to render claim 15 unpatentable.

As claims 16-24 and 32 depend from claim 15, Applicant respectfully submits that these claims are patentable over Delatorre at least based on this dependency.

As claims 25-31 recite elements analogous to those distinguished above, Applicant respectfully submits that these claims are patentable over the cited art for reasons analogous to those presented above with respect to claim 15.

### **CONCLUSION**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

**RESPONSE UNDER 37 C.F.R. § 1.111**  
**U.S. Patent Appl'n No. 10/038,585**

**Atty Docket No. Q67992**

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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